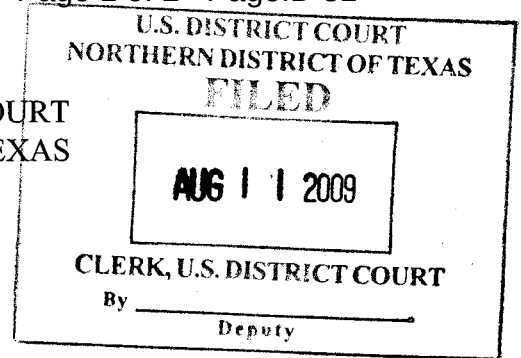


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION



DAVID LEE OLIVER,

Petitioner,

v.

NATHANIEL QUARTERMAN, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,

Respondent.

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2:09-CV-0158

ORDER OVERRULING OBJECTIONS,
ADOPTING REPORT AND RECOMMENDATION,
DENYING MOTIONS TO PROCEED *IN FORMA PAUPERIS*,
and DISMISSING PETITION FOR A WRIT OF HABEAS CORPUS

Petitioner has filed with this Court an application for a writ of habeas corpus by a person in state custody without prepayment of the required \$5.00 filing fee. Instead, petitioner submitted, with his petition for habeas relief, an Application to Proceed *In Forma Pauperis* along with a certified *in forma pauperis* data sheet from the penal institution in which he is incarcerated.

On July 21, 2009, the United States Magistrate Judge issued a Report and Recommendation in this cause, recommending therein that petitioner's application to proceed *In Forma Pauperis* be denied, and that the petition for a writ of habeas corpus filed by petitioner be dismissed for failure to pay the \$5.00 filing fee. On July 28, 2009, petitioner filed objections to the Report and Recommendation wherein he acknowledges he has funds but contends he cannot be required to pay any costs because of the Supreme Court ruling in *Murdock v. Pennsylvania*,

319 U.S. 105, 63 S.Ct. 870, 87 L.Ed. 1292 (1943) (invalidating a solicitation fee as applied to a religious group because it burdened the exercise of the constitutional rights to the free exercise religion and freedom of the press). Petitioner argues he “should not be held liable for the payment of, and at the hands of the wrongdoing of another, just to be able to file a complaint.” As of this date, the Court has not received a filing fee from petitioner.

The undersigned United States District Judge has made an independent examination of the record in this case. Petitioner’s objections are without merit and are hereby OVERRULED. The Magistrate Judge's Report and Recommendation is hereby ADOPTED. Accordingly, the motions to proceed *in forma pauperis* are DENIED and the petition for a writ of habeas corpus filed by petitioner is DISMISSED.

IT IS SO ORDERED.

ENTERED this 10th day of August 2009.


MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE